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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,601	01/28/2004	David C. Loda	EH-11078 (05-535)	5200
52237 7590 03/15/2007 BACHMAN & LAPOINTE, P.C. (P&W) 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510-2802			EXAMINER TRAN, DALENA	
			ART UNIT 3661	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/15/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/767,601	<b>Applicant(s)</b> LODA ET AL.	
	<b>Examiner</b> Dalena Tran	<b>Art Unit</b> 3661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12,46 and 47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12,46-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Notice to Applicant(s)**

1. This office action is responsive to the elect with traverse group I (claims 1-12, and 46-47). In response to the request for the withdrawn of the restriction, the examiner does not accept the request, because the claim sets 1-47 are classified in two different class and subclass, one group is a system of controlling a gas turbine engine, and the other group is a system and method for communicating with a deployed product. Therefore, they are not adequately linked to allow for search and examination together. Therefore, this office action only examined for group I, claims 1-12, and 46-47.

The prior art submitted on 4/23/04, 5/14/04, 4/1/05, and 11/7/05 has been considered.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 1, is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 1 in ('788) read on claim 1 of 10/767601.

Claim 2, is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 1 in ('788) read on claim 1 of 10/767601.

Claim 3, is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over corresponding system claim 2 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 2 in ('788) read on claim 3 of 10/767601.

Claim 4, is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over corresponding system claim 3 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 3 in ('788) read on claim 4 of 10/767601.

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Claim 5, is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over corresponding system claim 5 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 5 in ('788) read on claim 5 of 10/767601.

Claims 6-9 depended on claim 1 as above, therefore they are rejected for the same reason as above.

Claim 10, is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over corresponding system claim 9 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 9 in ('788) read on claim 10 of 10/767601.

Claim 11, is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over corresponding system claim 10 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 10 in ('788) read on claim 11 of 10/767601.

Claim 12, is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over corresponding system claim 11 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 11 in ('788) read on claim 12 of 10/767601.

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Claims 46-47, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over corresponding system claim 1 of U.S. Patent No. 7,167,788 (refers as '788). Although the conflicting claims are not identical, they are not patentably distinct from each other because subject matters of claim 1 in ('788) read on claims 46-47 of 10/767601.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalena Tran whose telephone number is 703-308-8223. The examiner can normally be reached on M-F (7:30 AM-5:30 PM), off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 703-305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner  
Dalena Tran



March 14, 2007